

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 18199
and 18200 of Joseph A. and Lena M.
Lamalfa to Appropriate from
Robinson Creek, Tributary to
Russian River, in Mendocino County

Decision D 1093

ADOPTED JUL 27 '62

DECISION APPROVING APPLICATION

Joseph A. and Lena M. Lamalfa having filed Applications 18199 and 18200 for permits to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Applications 18199 and 18200 are for permits to appropriate 0.4 cubic foot per second (cfs) each by direct diversion from Robinson Creek, tributary to Russian River, for the irrigation of the same 33-acre parcel in Mendocino County. The diversion season requested by Application 18199 is from May 1 to July 31 of each year, and the diversion season requested by Application 18200 is from May 1 to September 30 of each year.

The applicants have filed petitions to change the point of diversion designated in Application 18199 from a point within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 4, T14N, R12W, MDB&M, to a point within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 5, T14N, R12W, and to change the point of diversion designated in Application 18200 from a point within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 4, T14N, R12W, MDB&M, to a point within the NW $\frac{1}{4}$ of the same quarter section. They have also filed a petition to change the common place of use of both applications from 33 acres in projected Sections 4 and 5, T14N, R12W, MDB&M, to 14 acres within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, 1 acre within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, 10.5 acres within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 5, and 7.5 acres within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 4, all in T14N, R12W, MDB&M.

2. The proposed changes in points of diversion and place of use are to correct a map error and will not result in injury to any lawful user of water. The place of use under the proposed change is adjacent to Robinson Creek.

3. The project covered by Application 18199 has already been constructed and has been in use for a number of years. No additional quantity of water is proposed to be diverted at this point. The project contemplated by Application 18200 is for the purpose of furnishing supplemental water to meet applicants' needs at times when insufficient water is available at the existing diversion point. The applicants do not own the land upon which the point of diversion specified by Application 18200 is located but intend to obtain the necessary right of way from the owner.

4. Robinson Creek flows approximately 8.5 miles from its point of origin to the point of diversion designated by Application 18199. From that point it flows approximately 0.5 mile to join the Russian River. The point of diversion specified by Application 18200 is approximately 100 feet above the Robinson Creek-Russian River junction. On May 5, 1960, the flow of Robinson Creek at the U. S. Highway 101 crossing located between the applicants' two points of diversion was 8 cfs. On May 19, 1960, it was 5.4 cfs at the point of diversion specified by Application 18199 and 4.0 cfs at the point of diversion specified by Application 18200.

5. Protestant Department of Fish and Game requests that 1 cfs, or the natural flow of the stream, whichever is less, be bypassed at the applicants' point of diversion during the month of May for the maintenance of steelhead fish that spawn in Robinson Creek.

6. The flows requested by the protestant are necessary to sustain existing fish life in Robinson Creek, and it is in the public interest that they be maintained.

7. There is unappropriated water available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

8. The intended use is beneficial.

9. The permit to be issued pursuant to Application 18200 should contain a special term stating that the issuance of the permit shall in no way be construed as conferring upon the permittees right of access to the point of diversion or right of way for the conveyance system.

From the foregoing findings, the Board concludes that Applications 18199 and 18200 should be approved, and that permits should be issued to the applicants, subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are Applications 18199 and 18200 and all relevant information on file therewith, particularly report of the field investigation made May 19, 1960; Board Decision D 1030, and the United States Geological Survey Elledge Peak 7 $\frac{1}{2}$ -minute, Ukiah 15-minute, and Boonville 15-minute quadrangles.

IT IS HEREBY ORDERED that Applications 18199 and 18200 be, and the same are, approved, and that permits be issued to the applicants subject to vested rights and the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.4 cfs (under each permit) by direct diversion, to be diverted from about May 1 to about July 31 of each year under permit issued pursuant to Application 18199 and from about May 1 to about September 30 of each year under permit issued

pursuant to Application 18200. The total amount of water diverted under both permits shall not exceed 0.4 cfs.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Actual construction work contemplated by Application 18200 shall begin on or before December 1, 1962, and shall thereafter be prosecuted with reasonable diligence. If not so commenced and prosecuted, the permit issued pursuant to this application may be revoked.

4. Said construction work (Application 18200) shall be completed on or before December 1, 1964.

5. Complete application of the water to the proposed use pursuant to both permits shall be made on or before December 1, 1965.

6. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

8. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

9. Permittees shall bypass or release past the points of diversion 1 cfs, or the natural flow of the stream, whichever is less, during the period May 1 to June 1 to maintain fish life. This condition shall not be construed as placing a limitation on any pre-1914 appropriative or any riparian right to the waters of Robinson Creek that may be held by the permittee.

10. Rights acquired under the permit issued pursuant to Application 18199 shall be included in, and not in addition to, such other rights as permittee may have to the use of water of Robinson Creek.

11. The issuance of the permit pursuant to Application 18200 shall in no way be construed as conferring upon permittees right of access to the point of diversion or right of way for the conveyance system.

IT IS FURTHER ORDERED that the applicants' petitions to change the point of diversion designated by Application 18199 to a point within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 5, T14N, R12W, and to change the point of diversion designated by Application 18200 to a point within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 4, T14N, R12W, MDB&M, and to change the common place of use under both applications to 14 acres within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, 1 acre within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, 10.5 acres within the SE $\frac{1}{4}$ of

NE $\frac{1}{4}$ of projected Section 5, and 7.5 acres within the SW $\frac{1}{4}$ of
NW $\frac{1}{4}$ of projected Section 4, all in T14N, R12W, MDB&M, be,
and the same are, granted.

Adopted as the decision and order of the State Water
Rights Board at a meeting duly called and held at Sacramento,
California, on the day of , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member